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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,753	03/26/2004	Lawrence P. Sydow	7005-67235	5270

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EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,753	<b>Applicant(s)</b> SYDOW, LAWRENCE P.	
	<b>Examiner</b> Bret C. Hayes	<b>Art Unit</b> 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-32 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

EA

## **DETAILED ACTION**

### ***Election/Restrictions***

1. With respect to the restriction requirement mailed 31 MAR 05, examiner finds the Applicant's arguments persuasive. The restriction requirement is therefore vacated.

### ***Claim Objections***

2. Claim 30 is objected to because of the following informalities: at line 3, "interconnect ed" should be --interconnected--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
4. Claims 1 and 3 – 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 1, 3 and 29 recite the limitations "the exterior" in lines 4 and 5, and "the housing" in line 5. There is insufficient antecedent basis for these limitations in the claims. With respect to these and any of the following to which this may apply, the limitation "the exterior" could arguably and understandably have antecedent basis in the claims, were there an indefinite recitation of --a housing-- to support such an exterior.
6. Claims 10 and 19 recite the limitations "the exterior" and "the housing" in line 6. There is insufficient antecedent basis for these limitations in the claims.
7. Claim 24 recites the limitations "the exterior" in line 3, and "the body" in line 4. There is insufficient antecedent basis for this limitation in the claim.

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8. Claim 25 recites the limitations "the exterior" in lines 7 and 8, and "the housing" in line 8. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 26 recites the limitations "the exterior" in lines 6 and 7, and "the housing" in line 7. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 32 depends on an as yet to be presented claim 33. As such, the metes and bounds of the claim cannot be accurately determined, examiner's best efforts notwithstanding. For purposes of examination, the claim will be presumed to be dependent upon actually presented claim 31.

11. Any unspecified claim is rejected as being dependent upon a rejected base claim.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1 and 24 – 32 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 2,741,864 to Shotton ('864).

14. Re – claim 1, '864 discloses the claimed invention including an apparatus comprising: a body 10 comprising first and second housing sections 11 and 12, respectively, the first and second housing sections being detachably\* interconnected, the body comprising a fish attractant receiver, (*this is apparently defined elsewhere in the claims as the hollow area inside the sections 11 and 12, for example*); at least one opening 19, as set forth at col. 3, lines 39 – 51, and/or as seen in Fig. 3, for example, communicating from the receiver and to an exterior of the housing sections; the first and

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second housing sections comprising respective first and second fishing line receiving passageway defining members 13 and 14, respectively, the fishing line passageway defining members interfitting with one another, as at 16, as set forth at col. 2, lines 8 – 10, and best seen in Fig. 1, for example. Regarding the limitation ‘detachably’ interconnected; this merely requires the ability to be detached. Given man’s creativity, time and utensils, the sections as disclosed by ‘864 are ‘detachably’ interconnected.

15. Re – claim 24, ‘864 discloses the claimed invention including an apparatus comprising: housing means 10; interfitting passageway defining means 13 and 14; means for controlling, screws 19, the extent openings, those openings closed by screws 19, for example, are open; and indicia means for visually indicating\* the extent to which the openings are open. Regarding the limitation means for visually indicating just how open the openings are, screws, such as 19, have an inherent non-interfering tolerance with respect to threaded openings with which they are engaged. To that extent then, ‘864 discloses visual indicating means as claimed because one could tell by looking whether the screw 19 was absent, partially engaged or fully engaged. And when the screw 19 is absent or partially engaged, one would have the claimed openings being open. Also, see col. 3, lines 39 – 51 as indicated above.

16. Re – claim 25, ‘864 discloses the claimed invention as applied above with respect to claim 1. Substitute the claim recitation “first and second tubular projections having first and second end portions that interfit with one another” with “respective first and second fishing line receiving passageway defining members 13 and 14, respectively, the fishing line passageway defining members interfitting with one another, as at 16, as set forth at col. 2, lines 8 – 10, and best seen in Fig. 1, for example” from above.

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17. Re – claim 26, '864 discloses the claimed invention as applied above with respect to claim 25. Again, substitute the recitation regarding the passageway.

18. Re – claim 27, '864 further discloses wherein the first and second components, 13 and 14, each comprise a hollow tube section that projects into the interior of the receiver.

19. Re – claim 28, '864 further discloses wherein the components are molded as parts of the housing sections respectively, as set forth at col. 1, line 70 – col. 2, line 2.

20. Re – claim 29, '864 discloses the claimed invention as applied above. See col. 1, line 59 regarding the use of plastic as material of choice for construction of the device.

21. Re – claim 30, '864 discloses the claimed invention as applied above with respect to claim 29. '864 calls the portions 13 and 14 “tubular” as at col. 1, line 67, for example.

22. Re – claim 31, '846 discloses the claimed invention as applied above – ‘a portion of the tube (either 13 or 14) is so included in the first housing section (either 11 or 12) and is so received by the second section (whichever of 11 or 12 remains after the previous election of either 11 or 12).

23. Re – claim 32, '864 discloses the claimed invention as applied above – each of the housing sections 11 or 12 includes a portion of the ‘tube’ 13 or 14.

***Response to Arguments***

24. Applicant's arguments with respect to claims 1 and 3 – 32 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

25. Claims 3, 10 and 19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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26. Claims 4 – 9, 11 – 18 and 20 – 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (571) 272 – 6902. The examiner can normally be reached Monday through Friday from 5:30 am to 2:00 pm, Eastern Standard Time.

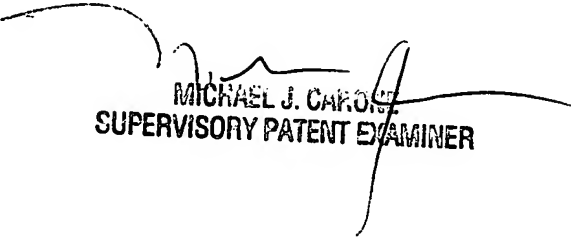
On July 15, 2005, the Central FAX Number was changed to **571-273-8300**. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and **571-273-8300** will be the only facsimile number recognized for “centralized delivery”.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu, can be reached at (571) 272 – 7045.

bh

21-Sep-05

  
MICHAEL J. CAROSI  
SUPERVISORY PATENT EXAMINER